

REMARKS

Claims 25-51 were pending in the application. Amendment to the claims should in no way be construed as an acquiescence to any of the Examiner's rejections. The amendments to the claims are being made solely to expedite prosecution of the above-identified application. Applicants reserve the option to further prosecute the same or similar claims in the instant or in another patent application. No new matter has been added.

Rejection of Claims 25-51 Under 35 U.S.C. § 112, Second Paragraph

Claims 25-51 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner has objected to applicants' use of parentheses in claims 25, 35 and 45. Claims 25, 35 and 45 have been amended to remove parentheses. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection of claims 25-51 under 35 U.S.C. § 112, second paragraph.

Rejection of Claims 25-51 Under the Judicially Created Doctrine of Obviousness-type Double Patenting Over U.S. Patents 6,346,391 and 6,677,133

New claims 25-51 do not claim the same invention as those claimed in U.S. Patent Nos. 6,346,391 and 6,677,133. The claims as presently pending pertain to methods of screening for compounds which reduce *antibiotic* resistance in *microbes comprising at least two of the following traits: i) at least one chromosomal mutation in a gene encoding a antibiotic target that renders the microbe resistant to one or more antibiotics; ii) a second mutation, to the same gene or a different gene than in (i), that further increases antibiotic resistance, and iii) increased expression of at least one efflux pump*. The claims further pertain to methods of treating infections caused by such microbes. Thus, the claims are different from those issued in U.S. Patents 6,346,391 and 6,677,133.

The Examiner has requested that Applicants file a terminal disclaimer terminally disclaiming the portion of any patent granted on the above-identified application, which would extend beyond the expiration date of U.S. Patent No. 6,346,391 and 6,677,133. A terminal

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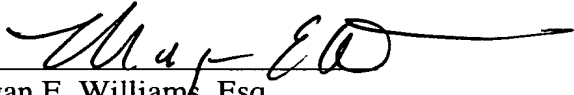
disclaimer and authorization to charge the appropriate fee to our deposit account are being filed concurrently herewith.

In view of the above, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. PKZ-035CPA2CN2 from which the undersigned is authorized to draw.

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Respectfully submitted,

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